

Consumer Product Safety Commission

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(d) In deciding whether to grant or deny an exemption request, the Commission considers the following general criteria:

(1) *The degree to which the exemption if granted would expose consumers to an increased risk of injury:* The Commission does not believe it should exempt products which would present a significantly greater risk to consumers than complying products. Therefore, the Commission will not grant exemption requests in such cases.

(2) *The cost to the Commission of granting emergency requests:* Granting emergency exemption requests will in most cases require drafting a proposed and a final amendment or a statement of enforcement policy for publication in the FEDERAL REGISTER. Such action may also require the Commission to monitor the sale or distribution of the products. These activities consume scarce Commission resources. In some instances, the costs to the Commission may exceed the benefit to be derived by a company and similarly situated companies. If so, the Commission may deny the request on this ground.

(3) *The precedential effect of exempting some products:* The Commission recognizes that decisions to exempt some products set precedents in at least two ways. First, they indicate to companies that the CPSC will permit deviations to a given regulation. Second, they indicate to companies that the CPSC will permit deviations to regulations in general. Both precedents, if set carelessly by the CPSC, could result in many requests for exemption and could undermine the stability and integrity of the Commission's regulations.

(e) In deciding whether to grant or deny an exemption request, the Commission also considers the following factors which relate specifically to the company making the request: (If the request is granted, all similarly situated companies, however, will be accorded the same relief).

(1) *The nature of the emergency exemption request:* The Commission will not reward bad quality control or faulty design work by permitting companies to market their mistakes. Although it is difficult to detail specific instances, the Commission is sympathetic to companies that produced noncom-

plying products due to factors beyond their immediate control or despite their best efforts.

(2) *The economic loss which a company will suffer if its emergency request is denied:* The greater the loss a company may suffer the more likely the Commission will favorably consider an exemption. However, the Commission does not believe economic loss alone should be determinative of an emergency exemption request.

(3) *The fairness to competitors:* The Commission is reluctant to grant relief if it could place the company at an unfair competitive advantage over other companies which have successfully complied with the same regulation. Therefore, the Commission will afford the same relief to similarly situated companies, and will decline to grant a request where unfair competitive advantage may result.

(15 U.S.C. 1191, 1261, 1471, 2051, 2111)

[44 FR 40639, July 12, 1979]

PART 1010 [RESERVED]

PART 1011—NOTICE OF AGENCY ACTIVITIES

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SOURCE: 46 FR 38322, July 24, 1981, unless otherwise noted.

§ 1011.1 General policy considerations; scope.

(a) In order for the Consumer Product Safety Commission to properly carry out its mandate to protect the

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public from unreasonable risks of injury associated with consumer products, the Commission has determined that it must involve the public in its activities to the fullest possible extent.

(b) To ensure public confidence in the integrity of Commission decision-making, the Agency, to the fullest possible extent, will conduct its business in an open manner free from any actual or apparent impropriety.

(c) This part 1011 presents general provisions concerning public notice for various types of Agency activities.

§ 1011.2 Definitions.

As used in this part 1011, the following terms shall have the meanings set forth:

(a) *Agency*. The entire organization which bears the title Consumer Product Safety Commission (CPSC).

(b) *Agency staff*. Employees of the Agency other than the five Commissioners.

(c) *Commissioner*. An individual who belongs to the collegial body heading the CPSC.

(d) *Commission*. The Commissioners of the Consumer Product Safety Commission acting in an official capacity.

(e) *Commission Meeting*. A meeting of the Commissioners subject to the Government in the Sunshine Act, 5 U.S.C. 552b. This term is more fully defined in the Commission's regulations under the Government in the Sunshine Act, 16 CFR part 1013.

(f) *Agency meeting*. A meeting between Agency personnel, including individual Commissioners, and outside parties. This term and the term "outside party" are more fully defined in the Commission's Meeting Policy, 16 CFR part 1012.

§ 1011.3 General requirements for various kinds of meetings.

Meetings which involve Agency staff or the Commissioners, other than Commission meetings, are classified in the following categories and shall be held according to the procedures outlined within each category.

(a) *Hearings*. Hearings are public inquiries held by direction of the Commission for the purpose of fact finding or to comply with statutory requirements. The Office of the Secretary is

responsible for providing transcription services at the hearings. Where possible, notice of forthcoming hearings will be published in the Public Calendar and the FEDERAL REGISTER at least 30 days before the date of the hearings.

(b) *Meetings between Commissioners or Agency staff and outside parties*. The requirements for Agency meetings between Commissioners or Agency staff and outside parties involving substantial interest matters are contained in 16 CFR part 1012.

(c) *Commission meetings*. The requirements for Commission meetings under the Government in the Sunshine Act, 5 U.S.C. 552b are contained in 16 CFR part 1013.

(d) *Staff meetings*. As a general rule, only Agency employees attend staff meetings. At the discretion of the participants, Staff meetings may be listed on the Public Calendar and attendance by the public may be permitted. Recordkeeping is at the discretion of the participants.

(e) *Advisory committee meetings*. Meetings of the Agency's advisory committees are scheduled by the Commission. Advance notice will be given in both the Public Calendar and the FEDERAL REGISTER. Advisory committee meetings serve as a forum for discussion of matters relevant to the Agency's statutory responsibilities with the objective of providing advice and recommendations to the Commission. The Agency's advisory committees are the National Advisory Committee for the Flammable Fabrics Act, the Product Safety Advisory Council, the Technical Advisory Committee on Poison Prevention Packaging and the Toxicological Advisory Board. The Office of the Secretary is responsible for the recordkeeping for such meetings. The Commission's regulation for the management of its advisory committees is set out in 16 CFR part 1018.

§ 1011.4 Forms of advance public notice of meetings; Public Calendar/Master Calendar and Federal Register.

Advance notice of Agency activities is provided so that members of the public may know of and participate in these activities to the fullest extent